

1 Amend 2 Cal. Code Regs. 18702.1 to read:

2 **18702.1. Determining When a Public Official is Making a Governmental Decision.**

3 (a) A public official "makes a governmental decision," except as provided in 2
4 Cal. Code Regs. section 18702.4, when the official, acting within the authority of his or
5 her office or position:

- 6 (1) Votes on a matter;
- 7 (2) Appoints a person;
- 8 (3) Obligates or commits his or her agency to any course of action;
- 9 (4) Enters into any contractual agreement on behalf of his or her agency;
- 10 (5) Determines not to act, within the meaning of subdivisions (a)(1), (a)(2), (a)(3),
11 or (a)(4), above, unless such determination is made because of his or her financial
12 interest. When the determination not to act occurs because of the official's financial
13 interest, the official's determination may be accompanied by an oral or written disclosure
14 of the financial interest.

15 (b) When an official with a disqualifying conflict of interest abstains from making
16 a governmental decision in an open session of the agency and the official remains on the
17 dais or in his or her designated seat during deliberations of the governmental decision in
18 which he or she is disqualified, his or her presence shall not be counted toward achieving
19 a quorum.

20 (c) During a closed meeting of the agency, a disqualified official shall not be
21 present when the decision is considered or knowingly obtain or review a recording or any
22 other non-public information regarding the governmental decision.

1 (d) Notwithstanding subdivision (a) of this regulation, to determine if a public
2 official who holds an office specified in Government Code section 87200 is making,
3 participating in making, or using or attempting to use his or her official position to
4 influence a governmental decision relating to an agenda item which is noticed for a
5 meeting subject to the provisions of the Bagley-Keene Act (Government Code section
6 11120 et seq.) or the Brown Act (Government Code section 54950 et seq.) apply 2 Cal.
7 Code Regs. sections 18702.1(a)(1) – (a)(4), 18702.2, 18702.3, 18702.4, and 18702.5.

8 COMMENT: Nothing in this section authorizes or prohibits an agency by local rule or
9 custom from requiring a disqualified member to step down from the dais and/or leave the
10 chambers.

11 NOTE: Authority cited: Section 83112, Government Code.

12 Reference: Sections 81002, 81003, 87100, 87101, 87105, and 87200, Government Code.